

Facilities for Returning Indians

Opening, maintenance and operations of foreign currency accounts abroad by residents require prior approval of the Reserve Bank. The Reserve Bank permission is also necessary for acquisition, holding and disposal of foreign securities or immovable properties abroad by residents. This equally applies to Returning Indians. Returning Indians are the residents abroad who have returned to India and who wish to continue to hold their assets abroad which were acquired by them while they were residing outside India.

In the context of liberalisation of exchange control regulations, the Reserve Bank has granted general permission to Returning Indians and to certain other residents to continue to hold their foreign currency assets abroad subject to certain conditions. This pamphlet attempts to explain, in question-and-answer form, current provisions regarding procedural formalities and the scope of the various exemptions granted by the Reserve Bank on the subject.

DEFINITIONS

Who is a non-resident Indian?

An Indian citizen who stays abroad for employment or business or takes up a vocation outside India or who stays abroad under circumstances indicating an intention to stay there for an uncertain period, is a non-resident. Persons posted in United Nations organisations and officials deputed abroad by Central/state government and public sector undertakings on temporary assignments are also treated as non-residents. Non-resident foreign citizens of Indian origin are treated on par with non-resident Indian citizens. Indian citizens who go abroad for business visit, medical treatment, study and such other purposes which do not indicate their intention to stay outside India for an indefinite period are considered as 'persons resident in India' during their temporary absence from India.

Who is a person of Indian origin?

For the purpose of the facilities outlined in this pamphlet, a foreign citizen (other than a citizen of Pakistan or Bangladesh) is deemed to be of Indian origin, if,

- (i) he, at any time, held an Indian passport, or
- (ii) he or either of his parents or any of his grandparents was a citizen of India by virtue of the Constitution of India or Citizenship Act, 1955 (57 of 1955).

Note: A spouse (not being a citizen of Pakistan or Bangladesh) of a person of Indian origin is also treated as a person of Indian origin.

FACILITIES

Are persons resident in India required to surrender foreign exchange acquired/held by them?

Yes. Residents receiving foreign exchange from abroad by way of gift, inheritance, remuneration for services rendered, etc. are required to bring it to India within three months

acquiring the foreign exchange and surrender it to an authorised dealer within seven days from its receipt in India. This rule also applies to non-residents who return to India for a purpose other than temporary visits.

Does this rule apply to other assets viz. foreign currency shares/securities or immovable property held abroad?

Residents are required to declare such assets to the Reserve Bank within three months from acquiring them and obtain permission of the Reserve Bank for holding them.

Are Returning Indians permitted to acquire fresh foreign currency assets by remittance from India?

Yes, provided the funds for the purpose are drawn out of their Resident Foreign Currency Accounts (See page 3 of this pamphlet).

Are any concessions available to Returning Indians in respect of assets acquired by them while they were resident outside India?

Yes. Persons who have returned to India on or after April 18, 1992 and have stayed abroad for a continuous period of not less than one year have been granted general permission/exemption from the requirement of surrendering/declaring their foreign currency assets abroad. As a result they can continue to maintain their foreign currency accounts and other assets, viz., foreign currency shares/securities or immovable properties abroad. Under the general permission/exemption, Returning Indians can retain their foreign currency accounts with banks abroad and hold, transfer or dispose of their foreign currency assets, provided these funds/assets were lawfully acquired by them out of foreign exchange earned through employment, business or vocation outside India taken up or commenced while they were resident outside India and not in contravention of the provisions of the Foreign Exchange Regulation Act (FERA), 1973.

Is such an exemption available to any other categories?

Yes. Residents who had acquired foreign currency assets abroad before July 8, 1947 can continue to hold them abroad, provided they were held outside India with the general or special permission of the Reserve Bank as on 6th July 1994. This general permission/exemption has also been granted by the Government of India vide their Notification dated July 6, 1994

Do resident donees or legal heirs require the Reserve Bank permission to receive or hold foreign currency assets by way of gift or inheritance from Returning Indians or from those holding assets since prior to July 8, 1947 with the permission of the Reserve Bank?

No. Resident donees or legal heirs of the persons covered under the general permission/exemption granted by the Government of India can continue to maintain their foreign currency assets provided in the case of gift the resident donee is a relative, i.e., husband, wife, brother, sister or any lineal ascendant or descendant of the donor and the tax, if any, has been paid in India. Resident donees not eligible for the exemption should surrender the foreign exchange to an authorised dealer against payment in rupees.

Can such overseas assets covered by the general permission/exemption be utilised freely?

Yes. The resident donees or legal heirs can freely utilise overseas assets covered by the general permission/exemption assets as well as income earned thereon or sale proceeds received subsequently, for bona fide payments in foreign currency.

Can persons covered by the general permission/exemption make any settlement or gift of any of their foreign exchange/foreign currency assets in favour of persons resident outside India?

Yes.

What about persons who are not covered by the general permission/exemption?

Persons who are not covered by the general permission/exemption are required to bring the overseas foreign currency assets to India within three months from the date of acquisition and surrender them to an authorised dealer within seven days from its receipt in India and/or obtain within three months of owning/date of return to India specific permission of the Reserve Bank for continuing to hold those assets.

What is the procedure for obtaining such permission?

Applications for the purpose should be made in form FAD 1 to the Reserve Bank of India. The forms are available with the Exchange Control Department (Foreign Accounts Section), Amar Building, Bombay-400 001. Returning Indians are also offered the facility of keeping their foreign currency funds with a bank in India. This facility is known as the Resident Foreign Currency (RFC) Account Scheme.

What is the Resident Foreign Currency Account Scheme?

This is a Scheme drawn up by the Reserve Bank permitting Returning Indians to open foreign currency accounts with banks in India for holding funds brought by them to India.

Is any permission from the Reserve Bank required for opening such accounts with authorised dealers?

No.

In which currencies can RFC accounts be maintained?

RFC accounts can be maintained in any convertible currency.

What funds can be credited to RFC accounts of Returning Indians?

The Returning Indians can credit to RFC accounts, the entire amount of foreign exchange brought to India at the time of their return to India for permanent settlement as well as the balances standing to the credit of their Not Resident (External) (NRE) and Foreign Currency Non-Resident (FCNR) accounts.

Can income received from their overseas assets in the form of dividends, etc., or sale

proceeds of such assets be credited to RFC accounts?

Yes.

Can pension received by the account holder from abroad be credited to his RFC account?

Yes.

Non-resident Indians (NRIs) returning to India for permanent settlement were granted (RIFEE) facility. Is this facility still available ?

No. RIFEE facility has been replaced by the RFC accounts facility.

Can funds in RFC accounts be remitted abroad ?

Yes. Funds in RFC accounts can be remitted abroad for any bonafide purpose of the account holder or his dependents.

Can funds in RFC accounts be utilised for local payments?

Yes. Funds in RFC accounts can be withdrawn freely for local payments in rupees.

Can RFC account holders take loan against the RFC balances?

No.

Can a Returning Indian desiring to go abroad again for employment, business or vocation transfer funds from RFC account to NRE/FCNR account?

Yes.

Can persons who have returned to India after a short assignment of less than one year open RFC accounts?

Their applications for opening RFC accounts would be considered by the Reserve Bank. Persons who have gone abroad for studies, training, etc., are, however, not eligible for this facility.

Can Returning Indians continue to maintain their existing NRE/FCNR/NRO accounts in India?

No. Returning Indians are required to redesignate immediately on their return to India their NRE/FCNR accounts as resident rupee accounts or transfer the balances held in their NRE/FCNR accounts to Resident Foreign Currency (RFC) Accounts (if eligible). The Non Resident (Ordinary) (NRO) accounts also have to be redesignated as resident rupee accounts. The funds held in NRO accounts can not be credited to RFC accounts.

MISCELLANEOUS

Are any tax concessions available to NRIs on balances/deposits held in NRE/FCNR

accounts ?

Yes. Income from interest on moneys standing to the credit of NRE/FCNR accounts is exempt from income-tax. Gifts from such accounts are also free of Gift-tax.

Are similar concessions available in respect of balances held in NRO accounts ?

No.

What are the tax benefits to the NRNR deposit account holders ?

They enjoy the following tax benefits :

- i) Income from the deposits will be free from Indian Income Tax.
- ii) The deposit will also be exempt from Gift Tax for one-time gifting (in the case of NRIs only).
- iii) Exemption from Income-Tax will not be available to resident donee and those residents, who being joint holders, become owners of the deposit as survivor of the non-resident depositor.

What about tax benefits on funds held in FCNR accounts?

Tax Exemption on interest earned on deposit held in foreign currency is available to non-residents and persons who are not ordinarily resident in India as defined under Income Tax Act, 1961.

What is the approved method of sending remittances into India?

The approved method of sending remittances into India is through normal banking channels.

At what rates are remittances in foreign currencies made by NRIs converted by banks into rupees?

Such remittances will be converted by banks at the market rate of exchange.

Can remittances be sent into India otherwise than through the medium of a bank in the country of residence of the remitter?

Yes. Exchange Houses in the Gulf countries have been permitted to send remittances into India by means of DDs, MTs and TTs drawn on banks in India.

Can Exchange Houses draw drafts in foreign currencies?

Yes. Exchange Houses can draw drafts in U.S. dollar or Pound sterling on a limited number of branches of the drawee bank in India, if they have entered into such an arrangement with the drawee bank.

Can NRIs remit funds through Exchange Houses for investment in Government securities, National Savings Certificates and Units of Unit Trust of India?

Yes.

Can NRIs remit funds through Exchange Houses for investment in shares/debentures of Indian companies?

Yes, subject to general/specific permission of Reserve Bank for such investment.

Can NRIs send drafts issued by Exchange Houses for acquisition of residential flats in India?

Yes. NRIs can send drafts issued by Exchange Houses in favour of Co-operative Housing Societies/estate developers for acquisition of residential flats in India in individual names.

Can NRIs remit premia on policies issued by the Life Insurance Corporation of India by means of drafts issued by Exchange Houses in favour of the Corporation?

Yes.

Can NRIs remit tuition/boarding/examination fees of their children studying in India by means of drafts issued by Exchange Houses in favour of schools, colleges, universities, technical and educational institutions in India?

Yes.

Is there any other approved method through which NRIs can send remittances to India ?

Yes. Personal remittances for private purposes can be sent through certain agencies approved by Reserve Bank.

Can such remittances be allowed to be credited to bank accounts of NRIs or utilised for making investment in India ?

No.

Can NRIs take out of India precious stones or jewellery purchased by them during their visit to India?

Yes. NRIs can take out of India precious stones and jewellery (both gold and non-gold) purchased by them in India, without any limit, provided the purchase is made against payment in any convertible foreign currency.

Can NRIs take out of India household articles purchased out of funds in NRO accounts during their temporary visit to India?

Yes. RBI permits on application such requests received from NRIs upto the value of Rs.20,000 for articles other than those made of gold or silver or those banned for exports.

Can NRIs settle their hotel bills in India in Indian rupees ?

Yes.

Can assets held in India by NRIs prior to their becoming non-resident be repatriated outside India?

No.